

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF PENNSYLVANIA

TINA LINDQUIST : NO. 04-249E  
Plaintiff, :  
v. : THE HONORABLE  
HEIM, L.P. : SEAN J. MCLAUGHLIN  
Defendant. :  
:

**PLAINTIFF'S MOTION TO STRIKE DEFENDANT'S OBJECTIONS TO  
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Now comes the Plaintiff, Tina Lindquist, by and through her undersigned counsel and files the within Motion to Strike Defendant's Objections to Magistrate Judge's Report and Recommendation in this matter, and avers as follows:

1. This Honorable Court ordered moving parties to file Motions for Summary Judgment by May 15, 2006.
2. Responses to Summary Judgment were due from the Plaintiff by May 22, 2006. These responses were timely filed.
3. On December 11, 2006, the Magistrate Judge issued the Recommendation and Report respectfully recommending that the Motion for Summary Judgment filed by Defendants (Document number 41) be denied. This was served and filed on counsel and parties on December 11, 2006 as Document number 51. A copy of Document number 51 is attached hereto as Exhibit "A".

4. Document 51, the Magistrate Judge's Report and Recommendation, provided ten (10) days for Defendant to file written objections to said report.

5. Moreover, Document 51, the Magistrate Judge's Report and Recommendation, specifically cited 28 U.S.C. §636(b)(1)(B) and (C) and local Rule 72.1.4(B) regarding the time to file written objections.

6. Section 636 of Title 28 U.S.C. provides, in pertinent part, that "within **ten (10) days** after being served with a copy (of the Magistrate's Report and Recommendation), any party may serve and file written objections to such proposed findings and recommendations as provided by Rules of Court". 28 U.S.C. § 636(b)(1)(B) and (C).

7. Moreover, Local Rule 72.1.4(B) likewise provides that Defendant shall have ten (10) days from date of service to file written objections to the Magistrate Judge's Report. The Magistrate Judge's Report and Recommendation was filed and served on December 11, 2006.

8. This Honorable Court did not issue any further or additional Orders permitting any late filing or extending dates for filing.

9. As such, the Court's schedule and deadlines relating to the filing remains in effect.

10. On December 28, 2006, Defendant filed objections to the Magistrate Judge's Report and Recommendation. A copy

of Defendant's Objections are attached hereto as Exhibit "B".

11. Defendant's Objections are not timely filed.

12. Accordingly, Defendant has failed to comply with this Court's Order and deadlines. As such, Defendant's filing and Objections to the Magistrate Judge's Report and Recommendations should be stricken.

WHEREFORE, in light of the foregoing, Plaintiff respectfully requests this Honorable Court to strike Defendant's Objections to the Magistrate Judge's Report and Recommendation and approve and adopt the Report and Recommendation of the Magistrate Judge previously filed.

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the within document was served on the party below in the following manner:

VIA ELECTRONIC FILING & FIRST CLASS MAIL:

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DATE: 01/03/07

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